

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of California-American  
Water Company (U210W) for  
Authorization to Increase its Revenues  
for Water Service by \$55,771,300 or  
18.71% in the year 2024, by  
\$19,565,300 or 5.50% in the year 2025,  
and by \$19,892,400 or 5.30% in the year  
2026.

Application 22-07-001

**PROTEST OF THE PUBLIC ADVOCATES OFFICE**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
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Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026.

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**I. INTRODUCTION**

Pursuant to Rule 2.6 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits this Protest to California-American Water Company’s (Cal Am) Application (A.)22-07-001, filed on July 1, 2022 (Application). Cal Am requests authorization to increase its current average system rates for water service by approximately 32% by 2026.<sup>1</sup>

In addition to the significant proposed increases in average system rates totaling more than \$95.2 million in revenue, Cal Am presents an uncollected surcharge account balance<sup>2</sup> totaling approximately \$245 million.<sup>3</sup> Of this balance, Cal Am seeks authorization to recover \$15 million via customer surcharges in this proceeding.<sup>4</sup> As

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<sup>1</sup> Application, p. 1.

<sup>2</sup> As used in this protest, the phrase “surcharge accounts” refers to authorized memorandum and balancing accounts.

<sup>3</sup> See Direct Testimony of Michael S. Clarke (July 1, 2022), Attachment 1.

<sup>4</sup> A significant portion of the \$245 million balance has already been approved for recovery or will be requested in other proceedings.

per standard practice, these surcharge amounts are not included in overall rate increases or the annual increases identified in the caption of the proceeding. However, the Commission should carefully consider the significant impact on customer bills of authorizing Cal Am to recover both the surcharges and its proposed rate increases.

Cal Am also seeks Commission authorization for 20 “special requests” that are detailed in its Application.

## **II. PROTEST ISSUES TO BE ADDRESSED**

Cal Advocates protests the magnitude of Cal Am’s proposed rate increases. Cal Advocates expects to present evidence demonstrating that Cal Am’s recent rate increases have significantly outpaced inflation and that Cal Am’s proposed rates are increasing at an even higher rate relative to current and anticipated inflation.

Cal Am proposes to increase capital spending by 85% in some ratemaking areas.<sup>5</sup> This level of increase is especially concerning given the financial incentives created under rate-of-return regulation.<sup>6</sup> Unlike in a competitive environment where an entity’s capital spending is constrained by the anticipated prices customers would be willing to pay, capital spending under rate-of-return regulation determines the rates customers will pay and the profits included in those rates. Because of this, it is important for the Commission to act as a substitute for competition and ensure that authorized capital spending is both prudent and reasonable.

In addition to the magnitude of Cal Am’s proposed capital spending, Cal Advocates protests the way Cal Am proposes to fund its capital spending. Cal Am’s Application proposes a ratepayer-funded annual budget of \$31.5 million for what it calls “recurring projects.”<sup>7</sup> This “recurring projects” budget proposes capital spending without any specific project detail or information and represents a 15% increase from

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<sup>5</sup> Application, pp. 4-5.

<sup>6</sup> Rate-of-return regulation is where an authorized rate of return is applied to an authorized rate base to determine the utility’s profits included in rates.

<sup>7</sup> Direct Testimony of Ian C. Crooks (July 1, 2022), pp. 19-20.

the “recurring projects” budget in Cal Am’s last general rate case.<sup>8</sup> In addition to the lack of transparency and adequate justification for a significant amount of capital spending, Cal Am’s proposed non-specific blanket budget of nearly \$100 million over three years raises the question of whether customer rates reflect the higher cost of unplanned and unscheduled projects that could be completed at a lower cost if planned and presented with project-specific detail.

Cal Advocates is conducting the necessary discovery, investigation, and analysis to address issues the Application raises, including whether Cal Am’s proposed revenues, expenses, rate base, and rate design are just and reasonable. Cal Advocates is also reviewing whether Cal Am’s special requests are appropriate and in the public interest.

The following is a non-exhaustive identification of issues the Commission should include in the scope of this proceeding. As discovery proceeds, Cal Advocates may identify additional issues for consideration. At present, Cal Advocates intends to review the issues summarized below.

**A. Scoping Issues**

1. Whether Cal Am’s forecast of revenues using present rates is reasonable and consistent with California’s conservation objectives;
2. Whether Cal Am’s proposed expense budgets are reasonable and reflect proper allocations to and from affiliated interests;
3. Whether ratepayer funding of Cal Am’s proposed capital spending is necessary, accurate, reasonable, and justified;
4. Whether Cal Am’s proposed rate base (i.e., the shareholder investment upon which profit is calculated) is reasonable;
5. Whether Cal Am’s proposed rate designs (i.e., how costs are recovered from different customers) are reasonable;

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<sup>8</sup> The ratepayer-funded annual budget for “recurring projects” was \$27,427,635 in 2022. See A.19-07-004, Direct Testimony of Ian C. Crooks (July 1, 2019), Attachment 2.

6. Whether Cal Am is in compliance with California's regulatory requirements for the provision of safe and reliable water service;
7. Whether Cal Am provides adequate customer service;
8. Whether Cal Am's application supports the goals and objectives of the Commission's Environmental and Social Justice Action Plan;
9. Whether Special Requests 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 are reasonable.

### **III. SPECIAL REQUESTS 7 AND 8 SHOULD BE EXCLUDED FROM THE SCOPE OF THIS PROCEEDING**

Cal Am's Special Requests 7 and 8 seek Commission authorization to establish new memorandum accounts for as-yet undetermined future acquisitions of water utilities. The Commission should exclude Special Requests 7 and 8 from this proceeding because the Commission has either repeatedly denied Cal Am's similar requests in separate proceedings or the Commission is now considering the issues in an industry-wide rulemaking.<sup>9</sup> Accordingly, exclusion of Special Requests 7 and 8 from the scope of this proceeding will promote consistency in the Commission's regulatory process.

The Commission has repeatedly denied Cal Am's requests for accounts similar to the contingency memorandum account described in Special Request 7.<sup>10</sup> More importantly, the Commission recently opened Rulemaking (R.) 22-04-003, an industry-wide rulemaking to review the framework and rules pertaining to the acquisition process of water utilities.<sup>11</sup> Parties in R.22-04-003 have already commented on whether a revised acquisition framework could entirely eliminate the justification for memorandum accounts in acquisition proceedings. Cal Am's Special Requests 7 and 8 relate to similar

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<sup>9</sup> Commission Rules of Practice and Procedure, Rule 1.3(f).

<sup>10</sup> See, e.g., D.21-08-002, Conclusion of Law 15, p. 44; D.19-11-003, p. 10.

<sup>11</sup> See generally *Order Instituting Rulemaking to review the existing guiding framework set forth in Decision 99-10-064 (consistent with the Public Water System Investment and Consolidation Act of 1997) regarding acquisitions involving water utilities under the Commission's jurisdiction* (April 18, 2022), in R.22-04-003.

issues that may arise for other water utilities regulated by the Commission, and the Commission is considering the underlying justification for both Special Requests in R.22-04-003. Thus, the Commission should exclude Special Requests 7 and 8 from the scope of Cal Am’s current general rate case in order to promote consistency in the Commission’s regulatory process.

**IV. NEED FOR HEARINGS**

Cal Advocates agrees with Cal Am that evidentiary hearings may be necessary.<sup>12</sup> Therefore, the Commission should adopt a schedule that allows parties time to conduct discovery, prepare testimony and participate in evidentiary hearings.

**V. SCHEDULE**

Cal Advocates proposes the following schedule:

|     |   |                               |
|-----|---|-------------------------------|
| 1.  | Application Filed/Testimony Served                    | July 1, 2022                  |
| 2.  | Pre-Hearing Conference Start Date                     | July 16 to September 19, 2022 |
| 3.  | Cal Advocates’ Protest                                | August 5, 2022                |
| 4.  | Update of Applicant’s Showing                         | October 10, 2022              |
| 5.  | Public Participation Hearings                         | October/November 2022         |
| 6.  | Cal Advocates’ Testimony                              | January 26, 2023              |
| 7.  | Other Parties Serve Testimony                         | February 9, 2023              |
| 8.  | Rebuttal Testimony                                    | March 27, 2023                |
| 9.  | Alternative Dispute Resolution Process                | April 3 to 24, 2023           |
| 10. | Evidentiary Hearings                                  | April 24 to May 12, 2023      |
| 11. | Opening Briefs Filed and Served                       | June 12, 2023                 |
| 12. | Motion for Interim Rates                              | June 12, 2023                 |
| 13. | Mandatory Status Conference                           | June 12, 2023                 |
| 14. | Reply Briefs Filed & Served (with Comparison Exhibit) | June 21, 2023                 |
| 15. | Water Division Technical Conference                   | July 11, 2023                 |
| 16. | Proposed Decision (PD) Mailed                         | October 9, 2023               |
| 17. | Opening Comments on PD                                | October 30, 2023              |
| 18. | Reply Comments on PD                                  | November 3, 2023              |
| 19. | Commission Meeting/Final Decision                     | November 20, 2023             |

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<sup>12</sup> Application, p. 12.

Among other things, the proposed schedule modifies Cal Am's schedule regarding public participation hearings. Cal Am's customers—who will be impacted by the outcome of this proceeding—should have an opportunity to express any concerns they may have regarding this proceeding through public participation hearings prior to the submission of Cal Advocates' and intervenors' testimony so that public input and concerns may be incorporated in the testimony. A minimum of at least one public participation hearing in each of Cal Am's service territories should be scheduled early in this proceeding's schedule so that Cal Advocates may consider and incorporate public comments into its analysis and testimony.

## **VI. CATEGORIZATION**

Cal Advocates agrees with Cal Am that the Commission should categorize this proceeding as ratesetting.<sup>13</sup>

## **VII. EX PARTE COMMUNICATIONS**

Cal Advocates requests that the assigned Commissioner prohibit individual ex parte communications<sup>14</sup> and permit only all-party meetings. Limiting the parties' communications with decision makers to all-party meetings, rather than a series of individual meetings with decision makers, will promote efficiency and transparency in this proceeding.<sup>15</sup>

## **VIII. CONCLUSION**

Cal Advocates respectfully requests that this proceeding be categorized as ratesetting; that the scope of this proceeding include but not be limited to the issues identified in this protest; and that the Commission set a schedule for this proceeding that provides adequate time for discovery, analysis, preparation of testimony and preparation for evidentiary hearings.

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<sup>13</sup> Application, p. 21.

<sup>14</sup> See Commission Rules of Practice and Procedure, Rule 8.2(d).

<sup>15</sup> See Commission Rules of Practice and Procedure, Rule 8.2(m).

Respectfully submitted,

/s/ Angela Wuerth

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